

to the specification required for the lading and that the maximum allowable working pressure (MAWP) of the portable tank is greater than or equal to the largest pressure obtained under the following conditions:

(1) For compressed gases and certain refrigerated liquids that are not cryogenic liquids, the pressure prescribed in § 173.315 of this subchapter.

(2) For liquid hazardous materials not covered in paragraph (q)(1) of this section, the sum of the vapor pressure of the lading at 46 °C (115 °F), plus the tank static head exerted by the lading, plus any pressure exerted by the gas padding, including air in the ullage space.

(3) The pressure prescribed in subpart B, D, E, F, G, or H of this part, as applicable.

(4) The maximum pressure used to load or unload the lading.

(r) Unless otherwise specified, where a portable tank is authorized, minimum tank design pressure is 172 kPa (25 psig) for any Packing Group I or Packing Group II liquid lading that meets more than one hazard class definition.

(s) Any DOT specification portable tank manufactured prior to January 1, 1992 that is equipped with a non-reclosable pressure relief device can continue in service for the commodities for which it is authorized. Except for DOT Specification 56 and 57 portable tanks, any DOT specification portable tank manufactured after January 1, 1992 used for materials meeting the definition for Division 6.1 liquids, Packing Group I or II, Class 2 gases, or Class 3 or 4 liquids, must be equipped with a reclosing pressure relief valve having adequately-sized venting capacity.

(t) *Exemption portable tanks based on DOT 51 portable tanks.* (1) The owner of a portable tank constructed in accordance with and used under an exemption issued prior to August 31, 1996, that was in conformance with the requirements for Specification DOT 51 portable tanks with the exception of the location of fill and discharge outlets, shall examine the portable tank and its design to determine if it meets the new outlet requirements contained in § 178.245-1(d) of this subchapter. If the owner deter-

mines that the portable tank is in compliance with all the requirements of § 178.245 of this subchapter, the exemption number stenciled on the portable tank shall be removed and the specification plate (or a plate placed adjacent to the specification plate) shall be durably marked "DOT 51-E*****" (where ***** is to be replaced by the exemption number).

(2) During the period the portable tank is in service, and for one year thereafter, the owner of the portable tank must retain on file at its principal place of business a copy of the last exemption in effect.

[29 FR 18671, Dec. 29, 1964. Redesignated at 32 FR 5606, Apr. 5, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 173.32, see the List of CFR Sections Affected appearing in the Finding Aids section of this volume.

EFFECTIVE DATE NOTE: By Amdt. 173-255, 61 FR 50625, Sept. 26, 1996, in § 173.32, in paragraph (d) a new third sentence was added at the end of the paragraph, in paragraph (e)(2)(i), the second sentence was revised, and a new paragraph (t) was added, effective Jan. 1, 1997. For the convenience of the user, the superseded text is set forth as follows:

§ 173.32 Qualification, maintenance and use of portable tanks other than Specification IM portable tanks.

* * * * *

(e) * * *

(2) * * *

(i) * * * A Specification 57 tank must be retested in accordance with § 178.253-5(b) of this subchapter. Any other tank must be tested by a minimum pressure (air or hydrostatic) of at least 2 pounds per square inch gage or at least one and one-half times the design pressure (maximum allowable working pressure, or re-rated pressure) of the tank, whichever is greater. * * *

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§ 173.32a Approval of Specification IM portable tanks.

(a) *Application for approval.* (1) An owner or manufacturer of an IM portable tank (§§ 178.270 through 178.272 of this subchapter) shall apply for approval to any approval agency designated to approve that tank in accordance with the procedures in subpart E, part 107 of this chapter.

(2) Each application for approval must contain the following information:

(i) Three complete copies of all engineering drawings, calculations, and test data necessary to insure that the design complies with the relevant specification.

(ii) The manufacturer's serial number that will be assigned to each portable tank.

(iii) A statement as to whether the design type has been examined by any approval agency previously and judged unacceptable. Affirmative statements must be documented with the name of the approving agency, reason for non-acceptance, and the nature of modifications made to the design type.

(b) *Action by approval agency.* The approval agency shall:

(1) Review the application for approval to determine whether it is complete and conforms with the requirements of paragraph (a) of this section. If an application is incomplete, it will be returned to the applicant and the applicant will be informed in what respects the application is incomplete.

(2) Review all drawings and calculations to ensure that the design is in compliance with all requirements of the relevant specification. If the application is approved, one set of the approved drawings, calculations, and test data shall be returned to the applicant. The second and third (inspector's copy) sets of approved drawings, calculations, and test data shall be retained by the approval agency.

(3) Witness all tests required in § 178.270–13 of this subchapter.

(4) Ensure, through appropriate inspection that each IM portable tank is fabricated in all respects in conformance with the approved drawings, calculations, and test data; and

(5) Upon successful completion of all requirements of this subpart, the approval agency shall:

(i) Apply its name, identifying mark or identifying number, and the date upon which the approval was issued, to the metal identification plate required by § 178.270–14 of this subchapter.

(ii) Issue an approval certificate for each IM portable tank or, in the case of a series of identical tanks manufactured to a single design, for the series

of IM portable tanks. The approval certificate must include all the information required to be displayed on the required metal identification plate.

(c) *Disposition of approval certificates.* A copy of each approval certificate must be retained by the approval agency and by the owner of each IM portable tank.

(d) *Denial of application for approval.* If an approval agency finds that an IM portable tank cannot be approved for any reason, it shall so notify the applicant in writing and shall provide the applicant with the reasons for which the approval is denied. An applicant aggrieved by a decision of an approval agency may appeal the decision in writing within 90 days of receipt to the Associate Administrator for Hazardous Materials Safety.

(e) [Reserved]

(f) *Approval of other existing IM portable tanks.* Portable tanks constructed on or before May 1, 1981, that have not operated under a DOT exemption must be approved in accordance with the provisions of paragraph (b) of this section.

(g) *Modifications to approved portable tanks.* (1) Prior to modification of any approved portable tank which may affect conformance to § 178.271 or § 178.272 of this subchapter, the owner or manufacturer desiring to make such modification shall inform the approval agency that issued the initial approval of the portable tank (or if unavailable another approval agency) of the nature of the modification and request approval of the modification. The owner or manufacturer shall supply the approval agency with three sets of all revised drawings, calculations, and test data relative to the intended modification.

(2) A statement as to whether the intended modification has been examined by any approval agency previously and judged unacceptable. An affirmative statement must be documented with the name of the approving agency, the reason for nonacceptance, and the nature of changes made to the modification since its original rejection.

(3) The approval agency shall review the request for modification, and if it is determined that the proposed modification is in full compliance with the

relevant DOT specification the request shall be approved and the approval agency shall:

(i) Return one set of the approved revised drawings, calculations, and test data to the applicant. The second and third sets of the approved revised drawings, calculations, and test data shall be retained by the approval agency as required in §107.404(a)(3) of this chapter.

(ii) Ensure through appropriate inspection, that all modifications conform to the revised drawings, calculations, and test data.

(iii) Determine the extent to which retesting of the modified tank is necessary based on the nature of the proposed modification, and ensure that all required retests are performed in accordance with §178.270-13 of this subchapter.

(iv) If modification to an approved tank alters any information on the approval certificate, issue a new approval certificate for the modified tank and ensure that any necessary changes are made to the metal identification plate. A copy of each newly issued approval certificate shall be retained by the approval agency and by the owner of each portable tank.

(4) If it is determined that the proposed modification is not in compliance with the relevant DOT specification, the request shall be denied. The procedures of paragraph (d) of this section apply to such denial.

(h) *Termination of Approval Certificate.*

(1) The Associate Administrator for Hazardous Materials Safety may terminate an approval issued under this section if he determines that:

(i) Information upon which the approval was based is fraudulent or substantially erroneous; or

(ii) Termination of the approval is necessary to adequately protect against risks to life and property.

(iii) The approval was not issued by the approval agency in good faith.

(2) Before an approval is withdrawn, the Associate Administrator for Hazardous Materials Safety gives the owner or manufacturer and the approval agency:

(i) Written notice of the facts or conduct believed to warrant the withdrawal;

(ii) Opportunity to submit oral and written evidence, and

(iii) Opportunity to demonstrate or achieve compliance with the application requirement.

(3) If the Associate Administrator for Hazardous Materials Safety determines that a certificate of approval must be withdrawn to preclude a significant and imminent adverse effect on public safety, he shall withdraw the certificate of approval issued by a designated approval agency. In such circumstances, the procedures of paragraphs (h)(2) (ii) and (iii) of this section need not be provided prior to withdrawal of the approval, but shall be provided as soon as practicable thereafter.

[Amdt. 173-144, 46 FR 9890, Jan. 29, 1981, as amended by Amdt. 173-185, 50 FR 11052, Mar. 19, 1985; Amdt. 173-224, 56 FR 66279, Dec. 20, 1991; Amdt. 173-253, 61 FR 27174, May 30, 1996]

§ 173.32b Periodic testing and inspection of Specification IM portable tanks.

(a) *Periodic testing*—(1) *Hydrostatic test.* Each Specification IM portable tank (§§178.270, 178.271 and 178.272 of this subchapter) and all piping, valves and accessories, except pressure-relief devices, shall be hydrostatically tested with water, or other liquid of similar density and viscosity, to a pressure not less than 150 percent of its maximum allowable working pressure. Testing shall be at intervals of not more than five years. While under pressure the tank shall be inspected, for leakage, distortion, or any other condition which might render the tank unsafe for service. The hydrostatic test shall be witnessed by an approval agency. Any damage or deficiency which might render the portable tank unsafe for service shall be repaired to the satisfaction of the witnessing approval agency and the tank hydrostatically retested. Upon successful completion of the hydrostatic test, the witnessing approval agency shall apply its name, identifying mark or identifying number and the date of the test on the tank as described in paragraph (d) of this section.

(2) *Pressure relief valves.* Spring loaded pressure relief valves must be removed from the tank and tested at intervals